

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

MARGARET SHERMAN, et al.,

Plaintiffs,

VS.

**SHANGLI JIN XIN EXPORT
FIREWORKS FACTORY, et al.,**

Defendants.

8:04CV300

ORDER

This matter is before the court on the motion of Donald E. Creador for leave to withdraw as counsel for Sunsong America, Inc. ("Sunsong") (Filing 156). The motion and accompanying Affirmation were served on opposing counsel and on Clint Shi, a/k/a Quan Shie, the president and sole officer of Sunsong. The court has not received a response in opposition to the motion.

I note that no substitute counsel has entered an appearance on behalf of Sunsong. The Eighth Circuit has held that "the law does not allow a corporation to proceed pro se." *Ackra Direct Mktg. Corp. v. Fingerhut Corp.*, 86 F.3d 852, 857 (8th Cir. 1996); *see also United States v. Van Stelton*, 988 F.2d 70, 70 (8th Cir. 1993) (noting that a corporation may not appear pro se); *Carr Enters., Inc. v. United States*, 698 F.2d 952, 953 (8th Cir. 1983) ("[i]t is settled law that a corporation may be represented only by licensed counsel"). In fact, according to the Eighth Circuit, a corporation is technically in default as of the date its counsel is permitted to withdraw from the case without substitute counsel appearing. *Ackra Direct*, 86 F.3d at 857.

Under the circumstances, I find that counsel shall not be given leave to withdraw until Sunsong has the opportunity to obtain substitute counsel.

IT IS ORDERED:

1. The Motion to Withdraw [156] is held in abeyance until June 15, 2006.
2. Sunsong America, Inc. shall have substitute counsel enter an appearance on its behalf on or before June 15, 2006. If Sunsong America, Inc. fails to have substitute counsel enter an appearance by that date the court may strike the answer of Sunsong America, Inc. and enter default, pursuant to Fed. R. Civ. P. 37(b)(2)(C).

3. Donald E. Creador shall, forthwith, serve copies of this Order and the Motion to Withdraw on Sunsong America, Inc. at its last known address by certified mail, return receipt requested.

4. Donald E. Creador shall timely file proof of service showing compliance with paragraph 3, above, and listing the names and addresses of the persons to whom notice was sent.

DATED May 18, 2006.

BY THE COURT:

**s/ F.A. Gossett
United States Magistrate Judge**